

U.S. Fish and Wildlife Serv., Interior

§ 11.12

- 11.25 Appeal.
11.26 Reporting service.

AUTHORITY: Lacey Act, 83 Stat. 279-281, 18 U.S.C. 42-44; Lacey Act Amendments of 1981, 95 Stat. 1073-1080, 16 U.S.C. 3371 *et seq.*; Bald Eagle Protection Act, sec. 2, 54 Stat. 251, 16 U.S.C. 668a; Endangered Species Act of 1973, sec. 11(f), 87 Stat. 884, 16 U.S.C. 1540(f); Marine Mammal Protection Act of 1972, sec. 112(a), 86 Stat. 1042, 16 U.S.C. 1382.

SOURCE: 39 FR 1159, Jan. 4, 1974, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 11 appear at 67 FR 38208, June 3, 2002.

Subpart A—Introduction

§ 11.1 Purpose of regulations.

The regulations contained in this part provide uniform rules and procedures for the assessment of civil penalties in connection with violations of certain laws and regulations enforced by the Service.

§ 11.2 Scope of regulations.

The regulations contained in this part apply only to actions arising under the following laws and regulations issued thereunder:

Lacey Act, 18 U.S.C. 43;
Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*;
Bald Eagle Protection Act, 16 U.S.C. 668-668d;
Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531 *et seq.*; and Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1384 and 1401-1407.

[47 FR 56860, Dec. 21, 1982]

§ 11.3 Filing of documents.

(a) Whenever a document or other paper is required to be filed under this part within a certain time, such document or paper will be considered filed as of the date of the postmark if mailed, or the date actually delivered to the office where filing is required. The time periods set forth in this part shall begin to run as of the day following the date of the document or other paper.

(b) If an oral or written application is made to the Director up to 10 calendar days after the expiration of a time period established in this part for the required filing of documents or other papers, the Director may permit a late filing within a fixed period where rea-

sonable grounds are found for an inability or failure to file within the time period required. All such extensions shall be in writing. Except as provided in this subsection, no other requests for an extension of time may be granted.

Subpart B—Assessment Procedure

§ 11.11 Notice of violation.

(a) A notice of violation (hereinafter “notice”), shall be issued by the Director and served personally or by registered or certified mail, return receipt requested, upon the person believed to be subject to a civil penalty (the respondent). The notice shall contain: (1) A concise statement of the facts believed to show a violation, (2) a specific reference to the provisions of the statute or regulation allegedly violated, and (3) the amount of penalty proposed to be assessed. The notice may also contain an initial proposal for compromise or settlement of the case. The notice shall also advise the respondent of his right to file a petition for relief pursuant to § 11.12, or to await the Director’s notice of assessment.

(b) The respondent shall have 45 days from the date of the notice of violation in which to respond. During this time he may:

- (1) Undertake informal discussions with the Director;
- (2) Accept the proposed penalty, or the compromise, if any, offered in the notice;
- (3) File a petition for relief; or
- (4) Take no action, and await the Director’s decision, pursuant to § 11.13.

(c) Acceptance of the proposed penalty or the compromise shall be deemed to be a waiver of the notice of assessment required by § 11.14, and of the opportunity for a hearing. Any counter offer of settlement shall be deemed a rejection of the proposed offer of compromise.

§ 11.12 Petition for relief.

If the respondent so chooses he may ask that no penalty be assessed or that the amount be reduced, and he may admit or contest the legal sufficiency of the charge and the Director’s allegations of facts, by filing a petition for relief (hereinafter “petition”) with the